

CITY COUNCIL AGENDA

NOVEMBER 15, 2005

AMENDED AGENDA

LINDA J. LE ZOTTE
FORREST WILLIAMS
CINDY CHAVEZ, VICE MAYOR
CHUCK REED
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER
MADISON P. NGUYEN
DAVID D. CORTESE
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Community & Economic Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 998-5299 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:00 a.m. - Closed Session, City Hall Tower, 18th Floor, City Hall
[See Separate Agenda](#)
1:30 p.m. - Regular Session, Council Chambers, City Hall
7:00 p.m. - Public Hearings, Council Chambers, City Hall
- **Invocation (District 10)**
- **Pledge of Allegiance**
- **Orders of the Day**

Items marked with an asterisk denote changes or additions to the previously published Agenda for this meeting.

ITEM 9.1 IS TO BE CONSIDERED IN A JOINT CITY COUNCIL/REDEVELOPMENT AGENCY BOARD SESSION.

ADJOURNMENT: This meeting will be adjourned in memory of Bill Santos, Co-President of the Hoffman/Via Monte NAC; and in memory of Jackson Huynh, an Andrew Hill High School student who courageously battled bone marrow cancer while attending school.

Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.

- * **See Item 1.12**, Presentation of a commendation to the Almaden Hills United Methodist Church...
- * **See Item 1.13**, Presentation of a commendation to Pioneer High School...

1. CEREMONIAL ITEMS

- 1.1** Presentation of a commendation to Campbell Middle School for sponsoring a coin drive and collecting \$1,170 to donate to the Red Cross to aid victims of Hurricane Katrina. (LeZotte)
(Deferred from 11/1/05 – Item 1.2)
- * **TO BE HEARD IN THE EVENING**

1. CEREMONIAL ITEMS

1.2 Presentation of a proclamation designated November 13 to 19, 2005 as National Hunger and Homelessness Awareness Week. (Housing)

1.3 Presentation of a commendation for Myrtle McKenna in celebration of her 101st birthday on November 30, 2005. (Campos)
RECOMMEND DEFERRAL

1.4 Presentation of a commendation to Comcast Corporation in recognition of their recent nomination as one of the “Top 40 Companies for Hispanics”, by *Hispanic Business* magazine. (Campos)

1.5 Presentation of a commendation to Westmont High School for raising over \$1,000.00 and collecting over 1,000 bags of clothes, food, and other items for the victims of Hurricane Katrina. (LeZotte)
(Rules Committee referral 10/12/05)
(Deferred from 10/18/05 – Item 1.9)
TO BE HEARD IN THE EVENING

1.6 **Number not used.**

1.7 Swearing-in ceremony for Districts 5, 7, and 8 Youth Commissioners. (City Clerk)
TO BE HEARD IN THE EVENING

1.8 Presentation of a commendation to Nick Donofrio, Executive Vice President, Innovation and Technology, to acknowledge IBM Corporation’s contributions to the intellectual and economic development of San José, Silicon Valley and the World, with the invention of the Random Access (RAMAC) Storage Device. (Williams)
* (Rules Committee referral 11/9/05)

1.9 Presentation of a commendation to the Coalition Against Teen Tobacco (CATT) in recognition of their outstanding commitment to tobacco prevention and education in our community. (Yeager)
(Rules Committee referral 11/9/05)
* **TO BE HEARD IN THE EVENING**

1.10 Presentation of a commendation to Design Response. (Cortese)
* (Rules Committee referral 11/9/05)

1.11 Presentation of a commendation to the Lake Cunningham Park Volunteers. (Cortese)
(Rules Committee referral 11/9/05)
* **TO BE HEARD IN THE EVENING**

*1.12 Presentation of a commendation to the Almaden Hills United Methodist Church for 45 years of service to the community and their commitment to reach out through numerous events that benefit the District 10 community. (Pyle)

1. CEREMONIAL ITEMS

- 1.13 Presentation of a commendation to Pioneer High School for outstanding service and commitment to the local community through a combined total of over 5,400 hours of community service. (Pyle)

* **TO BE HEARD IN THE EVENING**

2. CONSENT CALENDAR

Notice to the public: There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Consent Calendar and considered separately.

2.1 Approval of Minutes.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 27594 – Rezones certain real property situated at the northeast corner of Bramble Wood Lane and Silk Wood Lane (Tract 9618) to a A(PD) Planned Development Zoning District. PDC05-096
- * (b) ORD. NO. 27595 – Amends Section 3.36.550 of Chapter 3.36 of Title 3 of the San José Municipal Code to authorize 501(c)(2) title holding corporations as a vehicle in which the board of administration for the Police and Fire department retirement plan may invest in and take title to real estate investments.

2.3 [Approval to amend agreements for public art for the CIM Project.](#)

- * **Recommendation:** Adoption of a resolution authorizing the City Manager to:
- (a) Negotiate and execute an agreement with Block 3 Development Partners LLC, assignee of CIM California Urban RE Fund LGP, LLC (“Developer”), in an amount not to exceed \$122,104 for the City’s Office of Cultural Affairs to administer a public art project at Block Three, Phase 1 in downtown San José; and
 - (b) Negotiate and execute an amendment to the agreement between Developer and City to reflect an increase in the public art budget allocated to Phase 1 of Block Three, if the total estimated budget for the Block Three, Phase 1 Project shows an increase of more than 10% at the design development stage.
 - (c) Negotiate and execute an amendment to the agreement between Developer and City for the 2nd and Santa Clara site entered into April 18, 2004, to clarify the references to the budget for the Block 3 Project.

CEQA: Resolution No. 71039.1. Council District 3. (Economic Development)
(Deferred from 10/4/05 – Item 2.7 and 10/18/05 – Item 2.3)

2. CONSENT CALENDAR

2.4 [Approval to extend an agreement with the Transportation Security Administration for lease space at the Airport.](#)

Recommendation:

- (a) Approval of an extension of the permit with the U.S. General Services Administration for premises used by the Transportation Security Administration located at both Terminals A and C from November 19, 2005 through June 30, 2006, with annual revenue to the City of \$561,977.
- (b) Adoption of a resolution authorizing the City Manager to negotiate and execute up to four amendments to extend the term of the permit for additional one-year terms through June 30, 2010, at an annual rental rate consistent with the annual Airport Rates and Charges Resolution.

CEQA: Resolution Nos. 67380 and 71451, PP 05-166. (Airport)

* **RECOMMEND DEFERRAL TO 11/29/05**

2.5 [Approval of fiscal actions for Redevelopment Agency Capital Projects.](#)

Recommendation: Adoption of the following 2005-2006 appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):

- (a) Increase the appropriation to the Department of Public Works for the Office of Equality Assurance Audit Services Project (PSM 422) by \$80,000.
- (b) Increase the estimate for Earned Revenue by \$80,000.

CEQA: Not a Project. (City Manager's Office)

2.6 [Approval of travel requests for City Manager Del D. Borgsdorf.](#)

Recommendation: Approval of City Manager Del D. Borgsdorf's travel requests to the:

- (a) CEOs for Cities National meeting in Chicago, Illinois on December 1 and 2, 2005.
- (b) National League of Cities Congress of Cities and Exposition meeting in Charlotte, North Carolina on December 6 to 10, 2005.

(City Manager's Office)

2.7 [Approval of actions related to San José's Revolving Loan Fund Plan.](#)

Recommendation: Adoption of a resolution certifying that the:

- (a) City of San José's Revolving Loan Fund (RLF) Plan is consistent with and supportive of the area's current economic adjustment strategy, and
- (b) RLF is being operated in accordance with the policies and procedures contained in the RLF plan and the loan portfolio meets the standards.

CEQA: Not a Project. (Economic Development)

2. CONSENT CALENDAR

2.8 [Approval of ticket distribution program reports for the San José Arena Authority.](#)

Recommendation: Approval of ticket distribution program reports for the San José Arena Authority for the 3rd Quarter 2005. CEQA: Resolution No. 60199. (Economic Development)

2.9 [Approval to amend an agreement for engineering services at the Water Pollution Control Plant.](#)

- * **Recommendation:** Approval of the first amendment to the agreement with CH2M Hill for professional engineering services at the San José/Santa Clara Water Pollution Control Plant, extending the term of the agreement for a period of twenty-four months through December 31, 2007 at no increase in the maximum compensation payable by the City. CEQA: Not a Project. (Environmental Services)
RECOMMEND DEFERRAL TO 11/29/05

2.10 [Approval of sale of City-owned property located on the west side of Bird Avenue.](#)

Recommendation: Adoption of a resolution declaring a 5,300 square foot portion of City-owned land as:

- (a) Surplus to the needs of the City;
- (b) Authorizing its sale to Greg Blackwell Homes for \$39,750; and,
- (c) Delegating authority to the Director of General Services to execute all documents necessary to complete the transfer of the property.

CEQA: Exempt, File No. PP00-023. Council District 6. SNI: Greater Gardner. (General Services)

2.11 [Approval to convey title of portions of Montague Expressway to the County of Santa Clara.](#)

Recommendation: Adoption of a resolution authorizing the City Manager to execute all documents necessary to convey title of portions of Montague Expressway to the County of Santa Clara. CEQA: Resolution No. 66985. Council District 4. (Public Works)

2.12 [Approval of actions for the South Bay Water Recycling - San Fernando Pipeline Project.](#)

[Supplemental](#)

Recommendation:

- (a) Increase the contingency budget for the South Bay Water Recycling - San Fernando Pipeline Project by \$17,792.66 from \$158,000 to \$175,792.66.
- (b) Approval of Contract Change Order No. 8 with Pacific Underground Construction, Inc., for the South Bay Water Recycling - San Fernando Pipeline Project in the amount of \$25,844.90 for a total contract amount of \$1,232,242.66.

CEQA: Resolution No. 64667, PP03-11-350. Council District 3. SNI: University. (Public Works/Environmental Services)

2. CONSENT CALENDAR

2.13 [Approval to award a contract for the Traffic Signal Modification Project at 11th Street and Route 280.](#)

Recommendation: Report on bids and award of contract for the Traffic Signal Modification at 11th Street and Route 280 NB Off-Ramp Project to the low bidder, Golden Bay Construction, Inc., in the amount of \$286,635, and approval of a contingency in the amount of \$28,670. CEQA: Resolution No. 68905, PP 98-03-072. SNI: Spartan/Keyes and University. Council District 3. (Public Works/Transportation)

2.14 [Approval to change speed limits on certain streets in Council Districts 2 and 6.](#)

Recommendation: Approval to rescind Resolution No. 72599 related to the establishment of speed limits in the City of San José, and adoption of a resolution establishing speed limits with changes to the following roadways within the City of San José, including:

- (a) Re-establish speed limit on Pine Avenue, between Cottle Avenue and Lincoln Avenue, from 30 MPH to 25 MPH.
- (b) Establish speed limit on Palmia Drive, between Cottle Road and Palm Valley Blvd., 30 MPH.

CEQA: Exempt, File No. PP05-030. Council Districts 2 and 6. (Transportation)

2.15 [Approval of actions related to the Police Activities League \(PAL\) funding.](#)

* **Recommendation:**

- (a) Adoption of the following appropriation ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purpose Council District 8:
 - (1) Decrease the Reserve: PAL Stadium Synthetic Playing Field appropriation by \$100,000.
 - (2) Decrease the Ending Fund Balance by \$28,000.
 - (3) Establish a Trail: Silver Creek/Dobern Bridge appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of 128,000.
- (b) Adoption of the following appropriation ordinance amendments in the General Fund:
 - (1) Decrease the Trail: Silver Creek/Dobern Bridge capital appropriation by \$128,000.
 - (2) Establish a City-Wide appropriation to the Parks, Recreation and Neighborhood Services Department for PAL Maintenance in the amount of \$128,000.

CEQA: Not a Project. Council Districts 5 and 8. (City Manager's Office)
(Referred from 11/8/05 – Item 2.8)

2. CONSENT CALENDAR

2.16 Approval of actions for the Lucretia Avenue Widening Project.

*** Recommendation:**

- (a) Adoption of a resolution approving the Lucretia Avenue Widening Project and incorporating environmental mitigation measures as set forth in the mitigation monitoring and reporting program for the project.
- (b) Approval of eight purchase agreements for the purchase of portions of eleven parcels located on the west side of Lucretia Avenue between Story Road and Fair Avenue, for a total of \$612,410 for the purchases and closing costs, and adoption of a resolution authorizing the Director of Public Works to execute any additional documents necessary to complete the transactions.

CEQA: Mitigated Negative Declaration, PP05-003. Council District 7. SNI: Tully/Senter. (Public Works)

RENUMBERED FROM 6.3

2.17 Approval to reject and award re-bid for the Airport's General Engineering Contract 05-06.

*** Recommendation:**

- (a) Approval to reject all bids received on September 8, 2005 for the Norman Y. Mineta San José International Airport General Engineering Contract 05-06.
- (b) Report on bids received on October 27, 2005 and award of contract for the Norman Y. Mineta San José International Airport General Engineering Contract 05-06 to O' Grady Paving, Inc. in an amount not to exceed \$520,000.

CEQA: Resolution Nos. 67380 and 71451. PP 05-0152. (Public Works/Airport)

RENUMBERED FROM 6.4

2.18 Approval to award a contract for the Oakland Road Widening Project.

*** Recommendation:**

- (a) Report on bids and award of contract for the Oakland Road Widening Project to the low bidder, Top Grade Construction, Inc. in the amount of \$2,568,669, and approval of a contingency in the amount of \$129,000.
- (b) Adoption of a resolution approving the Oakland Road Widening Project and incorporating environmental mitigation measures set forth in the Mitigated Negative Declaration.

CEQA: Mitigated Negative Declaration, PP03-06-209. Council District 4. (Public Works/Transportation)

RENUMBERED FROM 6.5

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session Mayor Gonzales, Chair

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – November 2, 2005

Vice Mayor Chavez, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review November 15, 2005 Council Agenda
 - (2) Add New Items to November 8, 2005 Agenda
 - (3) List of Reports Outstanding
- (c) Legislative Update
 - (1) State
 - (2) Federal
- (d) Meeting Schedules
 - (1) Request to schedule the Service Delivery Models Study Session, January 12, 2006.
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
 - (1) Housing Advisory Commission
 - (2) Human Rights Commission
 - (3) Mobile Home Advisory Commission
 - (4) Small Business Development Commission
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Approval of request to transfer \$1,089.29 from District 5 Special Events Account to cover the costs of celebration of the Opening of Plaza de San José.
 - (2) Approval of travel by Council Member Campos to San Francisco, California, October 8, 2005, to attend the League of California Cities Annual Conference. Source of Funds: Mayor and City Council Travel Fund.
 - (3) Approval of travel by Council Member Campos to San Diego, California, November 17-19, 2005, to attend the League of California Cities Leader Workshop and Board of Director's Meeting. Source of Funds: Mayor and City Council Travel Fund.
- (h) Oral Communications
- (i) Adjournment

*** Report of the Rules Committee – October 26, 2005**

Vice Mayor Chavez, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review November 8, 2005 Draft City Council Agenda
 - (2) Add New Items to November 1, 2005 City Council Agenda
 - (3) List of Reports Outstanding
- (c) Legislative Update
 - (1) State
 - (2) Federal

(Item continued on next page.)

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – October 26, 2005 (Cont'd.)

Vice Mayor Chavez, Chair

- (d) Meeting Schedules
 - (e) The Public Record
 - (f) Appointments to Boards, Commissions and Committees
 - (1) Youth Commission
 - (a) Reappoint 3 Commissioners
 - (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Workload Assessment for Referral from the Small Business Development Commission Regarding Payment and Performance Bond Program for Small Business Contractors Workload Assessment
 - (h) Oral Communications
 - (i) Adjournment
- (Deferred from 11/8/05 – Item 3.2)

3.3 Report of the Making Government Work Better Committee Council Member Reed, Chair

3.4 [Adoption of an urgency ordinance related to permit and license provisions of Chapter 6.02 of the San José Municipal Code.](#)

[Attachment](#)

- * **Recommendation:** Adoption of an urgency ordinance amending Sections 6.02.130 and 6.02.250 of Chapter 6.02 of Title 6 of the San José Municipal Code to specify additional grounds for the denial, suspension or revocation of a license or permit and to authorize the designated department head to immediately suspend a license or permit under specified circumstances. CEQA: Not a Project. (Police/City Attorney)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee Council Member Chirco, Chair

4.2 Report of the Driving a Strong Economy Committee Council Member Williams, Chair

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 [Public Hearing and approval of an ordinance for a one-year pilot program for secondary units.](#)

[Attachment 1](#)

[Attachment 2](#)

[Supplemental 1](#)

- * **Recommendation:** Public Hearing and approval of an ordinance of the City of San José, effective as of January 1, 2006 and expiring as of December 31, 2006, providing for a limited exception to Ordinance No. 21663, which precludes second units, and authorizing a temporary second unit pilot program for the issuance of a maximum of 100 second unit permits for new construction during a one-year evaluation period, which pilot project automatically terminates if 100 permits are issued during the evaluation period or no later than the expiration date of the ordinance, and which establishes specified requirements pertaining to minimum lot size, maximum unit size and number of bedrooms, parking, development standards, design standards, and applicable fees. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (7-0-0) with direction to refine the limitation on storage area to a limitation on the amount of contiguous storage area of 10% of the total floor area of the second unit. CEQA: Exempt, File No. PP05-196. (Housing/Planning, Building and Code Enforcement)

[Building Strong Neighborhoods Committee referral 10/17/05 – Item 4.1(e), Deferred from 11/1/05 – Item 4.3]

[Driving a Strong Economy Committee referral 10/24/05 – Item 4.2(a), Deferred from 11/8/05 – Item 4.3]

(Deferred from 11/1/05 – Item 4.3)

TO BE HEARD IN THE EVENING

4.4 [Approval of ordinances and resolutions related to the off-sale of alcoholic beverages.](#)

- * **Recommendation:**
- (a) Final adoption of ORD. NO. 27564 - Repealing the provisions set forth in Part 7 of Chapter 20.80 of Title 20 of the San José Municipal Code pertaining to gasoline service station combined uses; amending Part 11 of Chapter 20.80 of Title 20 of the San José Municipal Code to amend the locational criteria for uses involving the off sale alcoholic beverages; amending Table 20-90 within Section 20.40.100 of Chapter 20.40 and amending Table 20-140 within Section 20.70.100 of Chapter 20.70, all within Title 20 of the San José Municipal Code, to distinguish off sale of beer and/or wine uses from off sale of all types of alcoholic beverages uses, and adding a new Chapter 6.84f to Title 6 of the San José Municipal Code to set forth considerations when making a determination of public convenience or necessity under a California State Liquor License Application, all effective February 1, 2006. ([Attachment](#))
- (Item continued on next page.)*

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.4 Approval of ordinances and resolutions related to the off-sale of alcoholic beverages. (Cont'd.)

*

Recommendation:

(b) Approval of an ordinance further modifying the provisions of Title 6 and Title 20 of the San José Municipal Code, to be effective February 1, 2006, related to the off-sale of alcoholic beverages, in response to Council direction provided under Item 4.3 of the Council's agenda on October 4, 2005, as follows:

- (1) Amending Section 6.84.030 of Chapter 6.84 of Title 6 to include a reference to Strong Neighborhood Initiative and Neighborhood Revitalization areas and other similar target law enforcement areas; and
- (2) Further amending Chapter 6.84 of Title 6 to include provisions for the City Council, on appeal, to consider the greater public benefits in determining public convenience or necessity; and
- (3) Amending Title 6 to add a new Chapter 6.86 to establish minimum operating regulations applicable to establishments engaged in the off-sale of alcoholic beverages and establishing a related inspection program; and
- (4) Amending Section 20.80.600 of Chapter 20.80 of Title 20 to provide that the use permit requirement for gasoline service station conversions is applicable to conversions of the stations in whole or in part.

([Attachment](#))

(c) Adoption of a resolution rescinding City Council Resolution No. 67881 related to census tracts of special concern about Alcoholic Beverage Licenses, to be effective February 1, 2006.

(d) Adoption of a resolution amending the Administrative Schedule of Fines to establish administrative fine amounts for violations of Chapter 6.86 and for violations of transient CUP condition violations related to off-sale of alcoholic beverages, and repealing Resolution No. 72833, to be effective February 1, 2006.

CEQA: Exempt, File No. PP05-161. (Planning, Building and Code Enforcement)
(Referred from 10/4/05 – Item 4.3)

RECOMMEND DEFERRAL TO 12/6/05, TO BE HEARD IN THE EVENING

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.5 Approval of actions related to a Hotel Business Improvement District.

Supplemental

* **Recommendation:**

- (a) Adoption of a resolution:
 - (1) Appointing an advisory board to advise the City Council on all issues related to a Hotel Business Improvement District and;
 - (2) Declaring its intent to establish the Hotel Business Improvement District and set a public meeting for November 29, 2005 at 1:30 p.m. and a public hearing for January 10, 2006 at 1:30 p.m. for the establishment of the Hotel Business Improvement District.
- (b) Subject to the establishment of the Hotel Business Improvement District:
 - (1) Preliminary approval of the budget report of the Advisory Board for the remainder of Fiscal Year (ended June 30) 2005-2006; and
 - (2) Adoption of a resolution of intention to levy an assessment for the remainder of Fiscal Year (ended June 30) 2005-2006; and setting a public hearing for January 10, 2006 at 1:30 p.m. on the levy of assessments for the remainder of Fiscal Year (ended June 30) 2005-2006.
- (c) Direct the City Clerk to publish the required notice of the public meeting and public hearings.

CEQA: Exempt, PP05-203. (Economic Development)

4.6 Approval of actions related to the City's industrial lands.

Attachment 1

Attachment 2

* **Recommendation:**

- (a) Acceptance of the status report on the City's industrial lands.
- (b) Adoption of the proposed modifications to the Framework, as a guideline, to evaluate proposed conversions of employment lands to other uses.
- (c) Approval of an ordinance amending Sections 20.50.100 and 20.50.110 of, and adding a new section 20.50.120 to, Chapter 20.50 and amending Sections 20.200.897 and 20.200.1065 of Chapter 20.200, all of Title 20 of the San José Municipal Code to further streamline required permit processes for certain uses to allow for increased amounts of commercial support uses within industrial zoning districts and amending Section 20.90.060, 20.90.210, and 20.90.220 of Chapter 20.90 of Title 20 to modify the parking provisions for uses within industrial districts. CEQA: Exempt, PP05-191.

Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-0-0-1; Dhillon abstained).

CEQA: Not a Project. (Planning Building and Code Enforcement)

[Driving a Strong Economy Committee referral 10/24/05 – Item 4.2(f)]

(Deferred from 11/8/05 – Item 4.4)

TO BE HEARD IN THE EVENING

5. NEIGHBORHOOD SERVICES

- 5.1 **Report of the All Children Achieve Committee**
Council Member Yeager, Chair

6. TRANSPORTATION & AVIATION SERVICES

- 6.1 **Report of the Building Better Transportation Committee**
Council Member Campos, Chair

- 6.2 [Acceptance of the status report on recommended development program revisions to the Airport Master Plan.](#)

[Attachment](#)

* **Recommendation:**

- (a) Accept this status report on recommended revisions to the implementation of the Airport Master Plan.
- (b) Authorize staff to prepare and return to Council with proposed amendments to the Airport Master Plan, project design/construction agreements, and other actions as necessary to implement the recommended development program revisions.
- (c) Approval of a common-use gate management strategy for the Airport terminal operation.
- (d) Adoption of the following appropriation ordinance amendments in the Airport Renewal and Replacement Fund:
 - (1) Establish the Public Parking appropriation in the amount of \$350,000.
 - (2) Establish the Terminal Area Development appropriation in the amount of \$700,000.
 - (3) Establish the West Side Airfield Reconstruction appropriation in the amount of \$95,000.
 - (4) Decrease the Relocate Parking Control Buildings appropriation in the amount of \$1,145,000.
- (e) Adoption of the following appropriation ordinance amendments in the Airport Revenue Bond Improvement Fund:
 - (1) Establish the Rental Car Garage Design appropriation in the amount of \$350,000.
 - (2) Decrease the Ending Fund Balance by \$350,000.
- (f) Accept recommendation that preliminary planning for the Terminal Area Development projects indicates that utilizing the Design-Build procurement process may save money or result in faster project completion than if the City used a procurement process involving its normal competitive bidding procedures, and direct staff to conduct outreach with the Design-Build stakeholder group prior to returning to Council for approval of the Request for proposals.

CEQA: Resolution Nos. 67380 and 71451, PP05-215 and PP05-062. (Airport/Public Works/City Manager's Office)
(Referred from 10/4/05 – Item 6.2)

6. TRANSPORTATION & AVIATION SERVICES

6.3 [Approval of actions for the Lucretia Avenue Widening Project.](#)

Recommendation:

- (a) Adoption of a resolution approving the Lucretia Avenue Widening Project and incorporating environmental mitigation measures as set forth in the mitigation monitoring and reporting program for the project.
- (b) Approval of eight purchase agreements for the purchase of portions of eleven parcels located on the west side of Lucretia Avenue between Story Road and Fair Avenue, for a total of \$612,410 for the purchases and closing costs, and adoption of a resolution authorizing the Director of Public Works to execute any additional documents necessary to complete the transactions.

CEQA: Mitigated Negative Declaration, PP05-003. Council District 7. SNI: Tully/Senter. (Public Works)

* **RENUMBERED TO 2.16**

6.4 [Approval to reject and award re-bid for the Airport's General Engineering Contract 05-06.](#)

[Supplemental](#)

Recommendation:

- (a) Approval to reject all bids received on September 8, 2005 for the Norman Y. Mineta San José International Airport General Engineering Contract 05-06.
- (b) Report on bids received on October 27, 2005 and award of contract for the Norman Y. Mineta San José International Airport General Engineering Contract 05-06 to O' Grady Paving, Inc. in an amount not to exceed \$520,000.

CEQA: Resolution Nos. 67380 and 71451. PP 05-0152. (Public Works/Airport)

* **RENUMBERED TO 2.17**

6.5 [Approval to award a contract for the Oakland Road Widening Project.](#)

Recommendation:

- (a) Report on bids and award of contract for the Oakland Road Widening Project to the low bidder, Top Grade Construction, Inc. in the amount of \$2,568,669, and approval of a contingency in the amount of \$129,000.
- (b) Adoption of a resolution approving the Oakland Road Widening Project and incorporating environmental mitigation measures set forth in the Mitigated Negative Declaration.

CEQA: Mitigated Negative Declaration, PP03-06-209. Council District 4. (Public Works/Transportation)

RENUMBERED TO 2.18

6. TRANSPORTATION & AVIATION SERVICES

6.6 Acceptance of staff's recommendation on the Santa Clara Valley Transportation Authority Proposed Measure A Expenditure Plan.

Supplemental

- * **Recommendation:** Acceptance of staff recommendations on proposed Regional Transportation Expenditure Plan advocating that the Santa Clara Valley Transportation Authority Board consider the following items at their December 1, 2005 Board meeting:
- (a) Allocate funding for the "Airport People Mover Connection to BART/Caltrain" Project in the Initial Program in the amount of \$248 million by pursuing the following:
 - (1) Drop "Interim Airport Shuttle" Project (\$41 million).
 - (2) Reduce the period of funding in the Initial Program from 30 years to 10 years for the "Pavement/Expressway/Bike/Pedestrian" program, retaining funding levels at \$15 million per year for a total of \$150 million. Include the remaining 20 years in the Completion Program (\$221 million). VTA should develop a strategy to secure funding from regional, state, and federal sources to finance the Completion Program for long-term local pavement maintenance needs, expressway improvements and enhanced bicycle/pedestrian facilities.
 - (b) Continue to pursue accelerated development of the BART to Silicon Valley project to preserve options for completion earlier than 2018 if Program cost savings or further project cost savings are identified and/or new revenues are secured such as through joint development efforts, or increased Federal or State grants.
 - (c) Allow the environmental review process for the "Santa Clara/Alum Rock Transit Corridor" Project to proceed so as to determine the preferred transit mode and then pursue amending the VTA Expenditure Plan to fully fund the approved project, as needed. Retain \$85 million in the Initial Program.
 - (d) Pursue accelerated development of the "Capitol LRT Extension to Eastridge" Project to preserve options for project delivery earlier than 2019 if Program cost savings or project cost savings are identified and/or new revenues secured.
 - (e) Accept placement of the "Capitol LRT Extension from Eastridge to Neiman" Project in Completion Program (for future funding) with the condition that connecting bus service be provided from development in the Neiman area to the Eastridge Transit Center.
 - (f) Pursue funding of Caltrain electrification as part of the California High Speed Rail Project to save costs for the San Francisco to San José and the San José to Gilroy segments.
 - (g) Support the VTA proposal for an annual review of the Expenditure Plan allowing flexibility to strategically respond to changing circumstances, needs and priorities.
 - (h) Continue support of VTA efforts to develop a Transit Expansion Policy that links transportation investment with the VTA Board's adopted evaluation criteria and supportive local land use development policies.

6. TRANSPORTATION & AVIATION SERVICES

6.6 Acceptance of staff's recommendation on the Santa Clara Valley Transportation Authority Proposed Measure A Expenditure Plan. (Cont'd.)

Recommendation: Acceptance of staff recommendations on proposed Regional Transportation Expenditure Plan advocating that the Santa Clara Valley Transportation Authority Board consider the following items at their December 1, 2005 Board meeting:

- (i) That the VTA Board develop a "reward policy" for local agencies that use local and/or private development funds to implement regional transportation projects and thereby granting priority for such agencies for other regional funding allocations. This would apply in both the transit and highway programs.

CEQA: Not a Project. (Transportation)

(Rules Committee referral 10/19/05)

(Deferred from 11/1/05 – Item 6.4)

RECOMMEND DEFERRAL TO 11/29/05

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

CONVENE REDEVELOPMENT AGENCY BOARD TO CONSIDER ITEM 9.1 IN A JOINT SESSION

9.1 [Approval of actions and recommendations related to Getting Families Back to Work III.](#)

- * **Recommendation:** Approval of actions and recommendations related to Getting Families Back to Work III. (Mayor/Vice Mayor)
(Rules Committee referral 11/2/05)
(Deferred from 11/8/05 – Item 9.2)

ADJOURN REDEVELOPMENT AGENCY BOARD PORTION OF THE MEETING

- Closed Session Report

- **Notice of City Engineer's Pending Decision on Final Maps**

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9693	NE corner Bonita Ave. and Sunny Ct.	3	KB Home South Bay	80 Units	Single Family Detached	Approve

* **DROP**

- **Open Forum—To be heard jointly with Redevelopment Agency Public Discussion. Following Open Forum, Council will recess until 7:00 p.m.**

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

(To be heard by the City Council at 7:00 p.m.)

Notice to the public: There will be no separate discussion of Public Hearings Consent Calendar (Item 11.1) as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Public Hearings Consent Calendar (Item 11.1) and considered separately.

11.1 Public Hearings on Consent Calendar.

Recommendation:

- * (a) Approval of an ordinance amending Sections 20.50.100 and 20.50.110 of, and adding a new section 20.50.120 to, Chapter 20.50 and amending Sections 20.200.897 and 20.200.1065 of Chapter 20.200, all of Title 20 of the San José Municipal Code to further streamline required permit processes for certain uses to allow for increased amounts of commercial support uses within industrial zoning districts and amending Section 20.90.060, 20.90.210, and 20.90.220 of Chapter 20.90 of Title 20 to modify the parking provisions for uses within industrial districts. CEQA: Exempt, PP05-191. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-0-0-1; Dhillon abstained).
Citywide
SEE ITEM 4.6(c) FOR COUNCIL ACTION TO BE TAKEN
- (b) [Conforming Rezoning from IP Industrial Park Zoning District](#) to LI Light Industrial Zoning District to allow industrial uses on a 1.42 gross acre site, located on the south side of Umbarger Road, 300 feet westerly of Meadowfaire Drive (370 Umbarger Road) (Umbarger LLC, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
[C05-089](#) - District 7

11. PUBLIC HEARINGS ON CONSENT CALENDAR

11.1 Public Hearings on Consent Calendar. (Cont'd.)

Recommendation:

- (c) [Conforming rezoning from County to CN Commercial Neighborhood Zoning](#)
District to allow commercial uses on a 0.15 gross acre site, located at/on the east side of Grand Avenue, approximately 300 feet northerly of West San Carlos Street (278 Grand Avenue) (Michael C. Ybarra, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C05-092 - District 6
- (d) [Planned Development Rezoning from IP Industrial Park Zoning District](#) to A(PD)
Planned Development Zoning District to allow up to 98 single family attached residences on a 4.7 gross acre site, located on the northwest corner of Old Oakland Road and Rock Avenue (2059 Oakland Road) (Ernest E. Pestana, Owner). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2-0).
PDC05-022 - District 4
- (e) [Planned Development Rezoning from the R-1-5, R-1-8 and R-M Residence](#)
districts to A(PD) Planned Development Zoning District to allow 56 multi family attached residences on a 2.27 gross acre site, located on the east side of Almaden Road across from the intersection with Malone Road (1992 Almaden Road) (Maurice M. and Adaleah K. Camara, Trustee, Owner.) CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (4-1-2-0).
PDC05-012 - District 6

11. PUBLIC HEARINGS

11.2 **Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development to allow entertainment uses.**

Recommendation: Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development to allow entertainment uses, at an existing assembly hall (G.I. Forum) on a 3.4 gross acre site, located 900 feet northerly of Story Road and approximately 2,300 feet westerly of McLaughlin Avenue (765 Story Road) (The American G.I. Forum, Owner). CEQA: Addendum to a Negative Declaration. Director of Planning, Building and Code Enforcement recommend approval. Planning Commission recommended denial (5-1-1, May 25, 2005).

PDC00-030 - District 7

[Continued from 10/18/05 – Item 11.1(e)]

DROP

11.3 **Public Hearing on an appeal of the Planning Director's decision to approve a Site Development Permit.**

Recommendation: Appeal of the Planning Director's decision to approve a Site Development Permit to allow construction of a 22-story building (approximately 8,000 square feet in), which included 330 residential units, a 208,996 square foot parking garage, and approximately 8,000 square feet of retail commercial use on a 1.42 gross acre site, and to demolish two existing structures, including the Palomar Ballroom a National Register of Historic Places eligible structure. The site is zoned DC Downtown Primary Commercial and is located at/on the southwest corner of Carlisle Street and Notre Dame Avenue (47 Notre Dame Ave) (Almaden Tower Venture, LLC, Owner; KT Properties Mark Tersini, Developer). CEQA: Almaden Tower Residential Project SEIR. Director of Planning, Building and Code Enforcement recommends approval subject to the conditions related to revised design, interim parking, and historic preservation. No Planning Commission action required.

H04-050 – District 3

11.4 **Planned Development Rezoning from A Agriculture Zoning District to A(PD) Planned Development Zoning District.**

Attachment

Recommendation: Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from A Agriculture Zoning District to A(PD) Planned Development Zoning District to allow up to 12 single family detached residences on a 3.19 gross acre site, located at/on the southeast corner of Fleming Avenue and Morrie Drive (1351 Fleming Avenue) (Judith M. Wallech, Trustee & et al, Owner: Braddock & Logan Group, Mr. James Sullivan, Developer). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2-0).

PDC05-043 - District 5

11. PUBLIC HEARINGS

11.5 Planned Development Rezoning located at the east side of North Ninth Street between Taylor Street and Jackson Street.

- * **Recommendation:** Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from LI Light Industrial Zoning District to the A(PD) Planned Development Zoning District to allow 44 single-family detached residences on a 2.79 gross acre site, located at the east side of North Ninth Street between Taylor Street and Jackson Street (680 N. 9th St.) (Le Ba Van and Nguyen Hanh Thi, et al, Bale Properties Huong Le, Martin and Neil Feldman Trustee, Owner). SNI: 13th Street. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommended approval subject to the following conditions:
- (a) Development standards should be modified to require a 10-foot setback for buildings from the westerly, N. 9th St. property line. Private open space area would be allowed to encroach up to 5 feet into this setback area.
 - (b) Provide a minimum of 280 square feet of private open space for each residential unit.
 - (c) Provide a minimum of 150 square feet of common open space for each residential unit.
- Planning Commission recommended approval (5-2-0-0; Levy and Zito opposed) with conditions:
- (a) Setback from N. 9th Street shall be 8 feet.
 - (b) Sidewalk width on 9th Street shall be 5.5 feet.
 - (c) Combined common and private open space shall be 430 square feet per unit, with direction to staff to include all paseos and front and side yards.
- PDC05-059 - District 3

- Open Forum

- Adjournment

This meeting will be adjourned in memory of Bill Santos, Co-President of the Hoffman/Via Monte NAC; and in memory of Jackson Huynh, an Andrew Hill High School student who courageously battled bone marrow cancer while attending school.

**JOINT CITY OF SAN JOSÉ
CITY COUNCIL/FINANCING AUTHORITY
AGENDA**

1:30 P.M.

TUESDAY, NOVEMBER 15, 2005

CHAMBERS

1. Call to Order

2. Approval of actions related to the City of San José Financing Authority's issuance of commercial paper and/or lease revenue bonds and for the Central Service Yard Phase II Project.

[Attachment 1](#)

[Attachment 2](#)

[Supplemental 1](#)

[Supplemental 2](#)

*** Recommendation:**

- (a) Conduct a Public Hearing of the City Council concerning the approval of the City of San José Financing Authority's issuance of commercial paper and/or lease revenue bonds in order to finance certain public capital improvements of the City related to the Phase II improvements of the City's Central Service Yard and the demolition of structures and clean up at the City's Main Service Yard.
- (b) Adoption of a resolution of the City Council approving and authorizing the execution of financing documents and authorizing other related actions in connection with the City of San José Financing Authority Lease Revenue Commercial Paper Notes Program to increase the not-to-exceed aggregate principal amount from \$98,000,000 to \$116,000,000 and to permit the issuance of commercial paper notes for the Central Service Yard Phase II Project and the demolition of structures and clean up at the City's Main Service Yard.
- (c) Adoption of a resolution of the City of San José Financing Authority approving and authorizing the execution of financing documents and authorizing other related actions in connection with the City of San José Financing Authority Lease Revenue Commercial Paper Notes Program to increase the not-to-exceed aggregate principal amount from \$98,000,000 to \$116,000,000 and to permit the issuance of commercial paper notes for the Central Service Yard Phase II Project and the demolition of structures and clean up at the City's Main Service Yard.

CEQA: Not a Project. (Finance)

(Deferred from 11/1/05 – SJFA #2)

(Item continued on next page.)

**JOINT CITY OF SAN JOSÉ
CITY COUNCIL/FINANCING AUTHORITY
AGENDA**

- 2. Approval of actions related to the City of San José Financing Authority's issuance of commercial paper and/or lease revenue bonds and for the Central Service Yard Phase II Project. (Cont'd.)**

Recommendation:

- (d) (1) Adoption of a resolution by the City Council authorizing the City Manager to award a design-build construction contract for the Central Service Yard Phase II Project to the lowest responsive bidder, Hensel Phelps Construction Company, in the amount of \$24,419,000, and approval of a contingency in the amount of \$2,441,900.
- (2) Adoption of a resolution by the City Council approving the Central Service Yard Phase II Project and incorporating environmental mitigation measures set forth in the Mitigation Monitoring and Reporting Program for the project.
- (3) Adoption of the following appropriation ordinance amendments in the Service Yards Construction and Conveyance Tax Fund:
- (a) Increase the appropriation to the General Services Department for the Central Service Yard Phase II Project by \$5,040,000.
- (b) Decrease the Ending Fund Balance by \$5,040,000.
- CEQA: Mitigated Negative Declaration, File No. PP05-136. (Public Works/General Services/City Manager's Office)

- 3. Adjourn the San José Financing Authority.**